IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELALTE JURISDICTION

FIRST APPEAL NO.22 OF 1997

1. Maharashtra State Financial Corporation, Branch Office at Solapur.

2. The Managing Director, Maharashtra State Financial Corporation, Mumbai - 400001.

3. The Regional Manager, Maharashtra State Financial Corporation, Pune - 411 030.

4. The Branch Manager, Maharashtra State Financial Corporation, Solapur. ..**Appellants**

V/s

Shaikh Abdul Aziz ..**Respondent**

Mr.A.G.Damle for the Appellants.
None for the Respondent.

CORAM : DR.S.RADHAKRISHNAN,J.

DATE : 5TH JUNE, 2006.

JUDGMENT (PER : DR.S.RADHAKRISHNAN,J)

1. Heard the learned Counsel for the Appellants. None appears for the Respondent, though served. By this appeal, the Appellants are challenging the judgment and decree dated 28th August, 1996 passed by the learned Civil Judge, Senior Division, Solapur, directing the Appellants to pay a sum of Rs.20,000/- as damages along with future interest @ 9% p.a.

2. Aggrieved thereby, the Appellants herein viz. the Maharashtra State Financial Corporation and its Officers - the original Defendants have filed this First Appeal.

3. It appears that the original Plaintiff - Respondent, after obtaining a degree of M.Sc. in Electronic, was desirous of starting his own industry and in that behalf the Plaintiff - Respondent had raised some amount from his relatives and purchased the plot from the Maharashtra Industrial Development Corporation Authority of Solapur for the purpose of starting an industry. The Respondent has alleged that the Appellants, by their letter dated 28th February, 1986 had invited an application for loan facilities for the purpose of setting up a unit. The said letter dated 28th February, 1986 is a general circular sent to all parties who were allotted plots by the Maharashtra Industrial Development Corporation at Solapur. The said letter solicits from the parties desirous of obtaining a loan from the Appellants. It appears that on the basis of the said letter, the Appellants herein had submitted a proposal to obtain loan. The case of the Respondent is that the Respondent had approached the concerned Branch Manager as well as Regional Manager for the purpose of sanctioning of loan. The Respondent has contended

that the Regional Manager had recommended the case of the Respondent for the purpose of sanctioning of the loan. Ultimately, the application for loan was considered by the Executive Committee of the Appellant No.1 and the said Executive Committee, after examining all aspects took an overall view that the same would not be a viable proposal and as such the committee had decided to reject the application for loan. The communication clearly indicates that the Appellants had regretted to inform the Respondent that it has decided to reject the loan proposal, as the same was not viable.

4. Aggrieved thereby, the Respondent had filed the suit against the Appellants claiming a sum of Rs.3,80,000/- as damages on account of the refusal to sanction the loan.

5. The learned Civil Judge, Senior Division, Solapur had framed the following issues in the aforesaid suit :-

ISSUES :-

1. Whether the Plaintiff proves that he was entitled to get the financial assistance from the Defendant Nos.1 to 4 and he has complied all the formalities ?

2.A Whether the Plaintiff proves that the decision of rejecting the financial proposal by the Defendant No.1 is arbitrary and illegal ?

2.B Whether this Court has jurisdiction to entertain the suit ?

3. Whether Plaintiff is entitled to damages ? If yes, to what amount ?

4. Does the Defendant No.4 prove that he is entitled to receive the compensatory costs from the Plaintiff ?

5. What should be the extent of compensatory costs to be awarded to Defendant No.4 ?

6. What order and decree ?

FINDINGS :-

1. In the affirmative.

2A. In the affirmative.

2B. In the affirmative.

3. Yes, to the extent of Rs.20000/-.

4. Does not survive.

5. Does not survive.

6. Suit is partly decreed with proportionate costs as per final order.

6. Mr.Damle, the learned Counsel for the Appellants fairly conceded that the Appellants are not challenging the issue with regard to jurisdiction. The main challenge of the Appellants is, that no loan at all was sanctioned to Respondent and the Appellants had, after considering all aspects came to a conclusion that the project contemplated by the Respondent was not viable and as such the Appellants had rejected the proposal for aforesaid loan. Therefore, the learned Counsel for the Appellants

contends that the learned Trial Court had totally erred in directing the Appellants to pay a sum of Rs.20,000/- as damages.

7. I have perused the Trial Court's judgment and order dated 28th August, 1996 as well as the evidence led on behalf of the Respondent as well as the Appellants. On behalf of the Respondent he has examined himself and no other witness has been examined by him. As far as Appellants are concerned, the Appellants had examined the Branch Manager of the Maharashtra State Financial Corporation, Solapur being the Appellant No.4, who was the sole witness examined on behalf of the Defendants.

8. The perusal of the evidence as well as other records, it clearly indicates that the Respondent had approached the Appellants for the purpose of sanction of loan, however, finally when the proposal was duly considered by the appropriate sanctioning authority, the sanctioning authority came to a conclusion that the proposal of the Respondent - Original Plaintiff was not a viable proposal and as such the application for loan was rejected.

9. The learned Trial Court has mainly proceeded on the basis that the Appellant Maharashtra State Financial Corporation ought to have given reasons for

rejecting such proposal for loan and by not mentioning any reason, the said rejection was arbitrary and illegal and as such the learned Trial Court had directed the Appellants to pay a sum of Rs.20,000/- as damages.

10. Perusal of the reasoning of the Trial Court indicates that the Trial Court has proceeded on an erroneous assumption that no reasons have been given by the Appellants while rejecting the said proposal. Whereas the communication which are exhibited at Exhibit 73 as well as Exhibit 90 which are referred to in paragraph 22 of the impugned judgment, clearly indicates that the proposal was duly considered by the Appellants on all aspects and found the said proposal to be a "not viable proposition" and as such the application for loan was rejected. Therefore, the findings of the learned Trial Court that there is absolutely no reasons given by the Appellants as such the same was arbitrary and illegal cannot be sustained. Over and above, even the basis of computing Rs.20,000/- as damages has not been indicated. The learned Trial Court has merely held that the Respondent is entitled for damages of Rs.20,000/- from the Appellants.

11. The learned Trial Court had strongly relied on the judgment of **Gujarat State Financial Corporation**

Vs. M/s. Lotus Hotels Pvt. Ltd. (1983) 3 SCC 379. Whereas in the said case it is very clear that the Gujarat State Financial Corporation had sanctioned the loan, thereafter it appears that the said Gujarat State Financial Corporation had arbitrarily refused to pay the loan amount though it had already sanctioned. On the contrary, in the present case, there is no dispute that no loan was ever sanctioned to Respondent. The Respondent had approached the Appellants for the purpose of sanction of loan which was rejected for the reason of "not viable proposition".

12. Under the aforesaid facts and circumstances of the case, the impugned judgment and decree is totally unsustainable, inasmuch as the Respondent - Plaintiff has totally failed to make out any case for damages. Hence, the appeal is allowed. The impugned judgment and decree dated 28th August, 1996 shall stands set aside and the suit stands dismissed. However, there shall be no order as to costs.

(DR.S.RADHAKRISHNAN,J.)